

1 ADAM PAUL LAXALT
Attorney General
2 GERRI LYNN HARDCASTLE, Bar No.13142
Deputy Attorney General
3 State of Nevada
Bureau of Litigation
4 Public Safety Division
100 N. Carson Street
5 Carson City, NV 89701-4717
Tel: 775-684-1134
6 Email: ghardcastle@ag.nv.gov

7 *Attorneys for Defendants*
Romeo Aranas, Karen Gedney
8 *and Dana Marks*

9 UNITED STATES DISTRICT COURT
10 DISTRICT OF NEVADA

11 RICHARD L. GRUBER,

12 Plaintiff,

13 v.

14 KAREN GEDNEY, et al.,

15 Defendants.

Case No. 3:15-cv-00543-RCJ-VPC

**DEFENDANTS' MOTION FOR
ENLARGEMENT OF TIME TO OBJECT TO
U.S. MAGISTRATE JUDGE'S REPORT AND
RECOMMENDATION AT ECF NO. 101
(First Request)**

16 Defendants, Romeo Aranas, Karen Gedney and Dana Marks, by and through counsel, Adam Paul
17 Laxalt, Attorney General of the State of Nevada, and Gerri Lynn Hardcastle, Deputy Attorney General,
18 hereby move this honorable Court for an enlargement of time to object to the Report and Recommendation
19 of the U.S. Magistrate Judge at ECF No. 101. This motion is made and based on Fed. R. Civ. P. 6(b)(1),
20 the following memorandum of points and authorities, and all pleadings and papers on file herein.

21 **MEMORANDUM OF POINTS AND AUTHORITIES**

22 **I. RELEVANT PROCEDURAL HISTORY**

23 This case is a *pro se* inmate civil rights action pursuant to 42 U.S.C. § 1983. ECF No. 34.
24 Plaintiff, Richard Gruber (Plaintiff), alleges that Defendants, Romeo Aranas, Karen Gedney and Dana
25 Marks, were deliberately indifferent to his serious medical need of Parkinson's disease by refusing to treat
26 him. *Id.* at 3.

27 ///

28 ///

1 On November 9, 2017, Defendants filed their motion for summary judgment. ECF No. 67.
2 Plaintiff filed his opposition to Defendant's motion for summary judgment on March 20, 2018. ECF No.
3 91. Defendants filed their reply to Plaintiff's opposition on April 16, 2018. ECF No. 99.

4 Magistrate Judge Cooke entered the Report and Recommendation of U.S. Magistrate Judge on
5 July 11, 2018. ECF No. 101. In her Report and Recommendation, she recommended that District Judge
6 Jones grant summary judgment in favor of Defendant Aranas; however, she recommended that District
7 Judge Jones deny summary judgment in favor of Defendant Gedney and Defendant Marks. *Id.* at 16.

8 As the Report and Recommendation states, a party wishing to object to the Report and
9 Recommendation must file a written objection pursuant to 24 U.S.C. § 636(b)(1)(c) by July 25, 2018. *Id.*
10 Unfortunately, Defendants will not be able to file their written objection by that time. Defendants' counsel
11 has other deadlines (in other cases) on July 25, 2018, which cannot be extended, and counsel is unable to
12 comply with those deadlines and the deadline for the objection in this case. Accordingly, Defendants
13 request an additional fourteen (14) days to file their objection to the Report and Recommendation of the
14 U.S. Magistrate Judge.

15 **II. LEGAL STANDARD**

16 District courts have inherent power to control their dockets. *Hamilton Copper & Steel Corp. v.*
17 *Primary Steel, Inc.*, 898 F.2d 1428, 1429 (9th Cir. 1990); *Oliva v. Sullivan*, 958 F.2d 272, 273 (9th Cir.
18 1992). Fed. R. Civ. P. 6(b)(1) governs enlargements of time and provides as follows:

19 When an act may or must be done within a specified time, the court may,
20 for good cause, extend the time: (A) with or without motion or notice if
21 the court acts, or if a request is made, before the original time or its
extension expires; or (B) on motion made after the time has expired if the
party failed to act because of excusable neglect.

22 "The proper procedure, when additional time for any purpose is needed, is to present to the
23 Court a timely request for an extension before the time fixed has expired (*i.e.*, a request presented
24 before the time then fixed for the purpose in question has expired)." *Canup v. Miss. Valley Barge Line*
25 *Co.*, 31 F.R.D. 282, 283 (D.Pa. 1962). The *Canup* Court explained that "the practicalities of life" (such
26 as an attorney's "conflicting professional engagements" or personal commitments such as vacations,
27 family activities, illnesses, or death) often necessitate an enlargement of time to comply with a court
28 deadline. *Id.* Extensions of time "usually are granted upon a showing of good cause, if timely

made.” *Creedon v. Taubman*, 8 F.R.D. 268, 269 (D.Ohio 1947). The good cause standard considers a party’s diligence in seeking the continuance or extension. *See, e.g., Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir. 1992).

III. DISCUSSION

Here, Defendants request an additional fourteen (14) days to file their objection to the U.S. Magistrate Judge’s Report and Recommendation at ECF No. 101. Defendants need this enlargement of time, because their counsel has deadlines in other cases on the same date that their objection is due pursuant to 24 U.S.C. § 636(b)(1)(c). The deadlines counsel faces in other cases cannot be extended and prevent counsel from meeting the deadline to object in this case. Defendants have demonstrated good cause for the enlargement of time, and they do not believe that Plaintiff will be unfairly prejudiced by this short extension.


IV. CONCLUSION

Because Defendants’ counsel is unable to complete her clients’ objection to the Report and Recommendation of the U.S. Magistrate Judge, Defendants respectfully request that this honorable Court grant the instant motion and allow them until Wednesday, August 8, 2018, to file their reply brief.

DATED this 24th day of July, 2018.


ADAM PAUL LAXALT
Attorney General

By:


GERRI LYNN HARDCASTLE
Deputy Attorney General
State of Nevada
Bureau of Litigation
Public Safety Division

Attorneys for Defendants

IT IS SO ORDERED this 26th day of July, 2018.


ROBERT C. JONES